UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HELEN CAMERON Plaintiff v. CITY OF BOSTON BOSTON PUBLIC SCHOOL DEPT/ BOSTON SCHOOL COMMITTEE, RAY SHURTLEFF, DIRECTOR, OFFICE OF HUMAN RESOURCES, EDDIE NEAL, STAFF ASSIGNMENT SPECIALIST, OFFICE OF HUMAN RESOURCES Defendant	CIVIL ACTION NO. 1:07-CV-12182-WGY

DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION TO DISMISS

The Defendants, City of Boston, Boston Publics School Department/ Boston School Committee ("BPS"), Ray Shurtleff, and Eddie Neal (hereinafter "Defendants or "Boston") submit this Memorandum of Law in support of their Motion to Dismiss the Complaint under Federal Rules of Civil Procedure Rules 8 and 12.

I. INTRODUCTION

This case is brought by the Plaintiff alleging that she is entitled to relief from the Defendants. *See Complaint*. The Complaint is 25-pages long with 33 numbered paragraphs of allegations and multiple legal counts asserted against the Defendant. *Id*. While the Complaint does not specifically assert the basis for this Court's Jurisdiction, generally and in list format the Complaint generally alleges employment discrimination on the basis of Plaintiff's race, age, gender, and purported disability. The other claims are not clear and based solely on the list of federal and state statutes included on pages 1 and 2. Plaintiff also seeks judicial review of "Defendants actions" and the Massachusetts Commission Against Discrimination ("MCAD") dismissal of Plaintiff's claim. *Id.*

II. FACTS

a. Facts alleged prior to statute of limitations

Plaintiff is an African-American female who began working for Boston Public Schools in 1979 as a reading teacher. Complaint ¶11. She became an acting guidance counselor in 1996. Complaint ¶12. In 2003 the office of Human Resources recognized an error in Plaintiff's personnel file and therefore lowered her rate of pay pursuant to the Collective Bargaining Agreement. Complaint ¶13. Human Resources notified Plaintiff of this error as soon as it was discovered in May 2003 by letter and informed her of her change in pay-scale effective May 5, 2003. Complaint ¶14. Plaintiff responded to this letter and initiated a grievance through the Boston Teacher's Union, of which she was a member. Complaint ¶14. The change in pay-scale was proper and not overturned. At the end of the 2002-2003 school year, Plaintiff was laid-off from Charlestown High School for budgetary reasons. Complaint ¶ 17. In October 2003, the layoff notice was rescinded and Plaintiff served as a guidance counselor for the remainder of the 2003-2004 school year. *Id.*

b. Facts within the Statute of Limitations period

At the end of the 2003-2004 school year, all three (3) guidance counselors at Charlestown High School were again laid-off for budgetary reasons. *Complaint* ¶ 18. One guidance counselor was brought back for the 2004-2005 school year because he had bilingual (Chinese) capabilities. *Id and ¶20 p. 15.* Plaintiff was assigned to the Clap Elementary School as a reading teacher, a position in which she had previously taught for which she continued to maintain certification. *Complaint ¶10 p. 7*. Plaintiff failed to report to this assignment and therefore was terminated. Complaint ¶ 21 p.20. Plaintiff was given a disciplinary hearing as a result of her failure to report and it was found that she knowingly did not report to her assignment. Plaintiff's termination was upheld. Next. Plaintiff filed a charge of discrimination with the Massachusetts Commission Against Discrimination ("MCAD") on October 12, 2004. Complaint ¶10. The charge was dismissed by the MCAD for lack of probable cause on April 26, 2007. The Equal Employment Opportunity Commission ("EEOC"), having concurrent jurisdiction, also dismissed the case and issued a Right to Sue Letter dated September 20, 2007. *Complaint* ¶ 28.

III. ARGUMENT

A. Standard of Review

The applicable standard for reviewing a Motion to Dismiss is whether the plaintiff can prove no set of facts in support of her claim which would entitle her to relief. *See Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); *O'Brien v. DiGrazia*, 544 F.2d 544, 546 (1st Cir. 1976). In considering a Motion to Dismiss, the Court is, obliged to accept the plaintiff's well-pleaded facts as they appear but this "indulgence does not require the Court to credit - indeed it requires the Court to reject - bald assertions, unsubstantiated conclusions or outright vituperation." See *U.S. v. AVX Corp.*, 962 F.2d 108, 115 (1st Cir. 1992). Rule 12(b)(6) of the Fed. R. Civ. P. allows the court to dismiss a complaint when it fails to state a claim upon which relief can be granted. *Sanfeliz v. Chase Manhattan*

Bank, 349 F. Supp. 2d 240, 243 (2004). Under Rule 12(b)(6), the court must take the allegations of the complaint as true, and determine whether, under any theory, the allegations are sufficient to state a cause of action in accordance with the law. *Brown v. Hot, Sexy and Safer Productions*, 68 F.3d 525, 530, (1st Cir. 1995). The court should not accept interpretations and unsupported conclusions of law, since the facts must be susceptible to any "objective verification". *Washington Legal Found. v. Massachusetts Bar Found.*, 993 F.2d 962 (1st Cir. 1993). According to this provision, the Court will base its determination solely on the material submitted as part of the complaint or central to it. *Fudge v. Penthouse Int'l Ltd.*, 840 F.2d 1012, 1015 (1st Cir. 1988). In the present case, it appears from a reading of the Complaint that the Plaintiff is asserting claims of discrimination on the basis of :

> "race, color, ethnicity, age, gender, and disability and retaliated against her for exercising her rights under state of Massachusetts General Laws Chapters 71, 149, 150E, 151B, 152 and other state and federal laws without limitations. Plaintiff also asserts that this case involves claims under Title Vii, Title I, Title XXVIII and Title III, including without limitations, the Equal Pay Act, ADEA, ADA, FMLA, SNLA, FLSA and other federal laws and statutes including, the Employee Retirement Income Security Act (ERISA), 29 USC. Ss 1001-1461; …29 U.S.C. ss 1132…29 USC ss 1161 et seq." *See p.1-2 of Complaint.*

Plaintiff's Complaint, however, lacks any further reference to M. G.L. c. 152, "Title I" (Improving the Academic Achievement of the Disadvantaged), "Title XXVIII" (Actions for Re-determinations of Employment Status) 26 U.S.C.A. §7436; "Title III" (Language Instruction for Limited English Proficient and Immigrant Students) 20 U.S.C.A. §841-848; the "SNLA" ("Small Necessities Leave Act") M.G.L. c.149 §521; or ERISA.

Furthermore, the Complaint contains no facts which support such claims and, therefore, it should be dismissed as a matter of law.[1]

B. The Complaint Should be Dismissed Because Her Claims are Barred by the Statute of Limitations

Plaintiff filed her charge of discrimination at the MCAD on October 12, 2004. Complaint ¶ 10. M.G.L. c. 151B, §5 as amended by the legislature in 2002, sets forth that a complaint for discrimination must be filed within 300 days after the alleged act of discrimination. A claim is time-barred where a complaint of discrimination was made more than 300 days after the actionable violation had occurred, because complaint under GL 151B s. 5 must be filed within 6 months after alleged act of discrimination, now that the law has been amended, a complaint must be filed within 300 days. *Joseph v. Wentworth Inst. of Tech.* 120 F. Supp. 2d 134, 142 (D. Mass. 2000). In the instant case, Plaintiff filed her MCAD charge on October 12, 2004. In that charge and the instant Complaint, Plaintiff begins with allegations of events occurring in 1995. To the extent that she relies on actions occurring more than 300 days before filing her charge at the MCAD, her allegations were not made within the proper limitations period, and therefore, the MCAD did not consider those claims *Id.* Additionally, Complainant had notice in June 2003 of a reduction in her pay due to a clerical error, that she is now claiming was discriminatory. *Complaint* ¶9 p.5. Plaintiff grieved the reduction in pay to her union in June of 2003 thereby showing Plaintiff's realization of alleged improper behavior. *Id.* The statutory period for complaining of a discriminatory action does not begin to run until the employee has sufficient notice of that specific act. *Id.* Here, Complainant had notice and acknowledged that notice though her actions in June 2003. If one were to add 300 days to June 2003, Plaintiff should have filed in or around March, 2004. Instead, Complainant filed on October 12, 2004, long after the statutory period. No adverse employment action occurred within the 300 days prior to filing of the charge at the MCAD. Allegations regarding actions that took place prior to **December 17, 2003** (300 days prior to the filing at the MCAD) must, therefore, be stricken. This 300 day statute of limitations is the same for Title VII, and ADEA claims. See 42 U.S.C.A. §2000e-5(3)(1) and 29 U.S.C.A. §626(d)(2).

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[1] Pursuant to the Federal Rules of Civil Procedure a complaint "shall contain … (2) a short and plain statement of the claim showing that the pleader is entitled to relief, …" *Fed.R.Civ.P. Rule 8(a)(1).* Moreover, "each averment of a pleading shall be simple, concise, and direct." *Fed.R.Civ.P. Rule 8(e)(1).* Rule 10 further requires that all averments of a complaint be set out in numbered paragraphs and that the contents of each "shall be limited as far as practicable to a statement of a single set of circumstances." *Fed.R.Civ.P. Rule 10(b).* When a plaintiff fails to comply with these rules, a defendant is allowed to move for dismissal of the action. *Fed.R.Civ.P. Rule 41(b).* Plaintiff has by no means complied with these rules in the present Complaint and as such Plaintiff's Complaint should be dismissed.

Plaintiff makes vague and unsubstantiated references to the Federal Equal Pay Act (FEPA) that reach back to May 2003 when Plaintiff was changed to a lower pay scale pursuant to the Collective Bargaining Agreement. *Complaint* ¶ 14. Plaintiff was aware of the pay change and responded with a letter to the Human Resources Department and filed a grievance on the issue. *Id.* Suits alleging violations of the FEPA must be filed within two (2) years of the after the cause of action arises, unless the violation is "willful," in which case a three-year limitation period applies. 29 U.S.C. § 255 (a). Plaintiff has filed the instant suit on December 5, 2007 therefore any EPA violations dating prior to December 5, 2005 are outside the statute of limitations and should be dismissed. There are no allegations of facts that the violation is "willful," however, even if there were, Plaintiff was receiving her pay according to the Collective Bargaining Agreement between the Boston Teachers Union and the Boston School Committee, which Plaintiff admits, therefore, there is no willful violation. [2]

C. Plaintiff's Complaint Should Be Dismissed Because Plaintiff Cannot Establish A Prima Facie Case Of Discrimination Based On Race, Gender Or Age.

Plaintiff's claims of discrimination based on race, gender or age must fail because she cannot meet the elements of a *prima facie* case. Claims for discrimination under federal or state law are governed by the familiar *McDonnell Douglas* three-step burden-shifting framework. *Douglas v. J.C. Penney Co., Inc.***,** 422 F.Supp.2d 260 (D.Mass., 2006). *See Quinones v. Buick,* 436 F.3d 284 (1st Cir. 2006) (citing *McDonnell Douglas Corp. v. Green,* 411 U.S. 792 (1973). First, the employee must establish a prima facie case of discrimination. *McDonnell Douglas,* 411 U.S. at 802. The burden then shifts to the employer to "present a legitimate, non-discriminatory reason, sufficient to raise a genuine issue of material fact as to whether it discriminated against the employee, for the employment decision." *Quinones,* 436 F.3d at 289. Finally, the employee must show that the employer's non-discriminatory reason was "mere pretext," and that the "real reason" for the employment decision was discrimination. *Id.* The burden of persuasion rests at all times with the plaintiff. *Mariani-Colon v. Department of Homeland Sec. ex rel. Chertoff* --- F.3d ----, 2007 WL 4403526 (C.A.1.,Puerto Rico, 2007).

To establish a prima facie case of discrimination based on disparate treatment, Plaintiff must show that (1) she belonged to a protected class; (2) she was performing her job at a level that rules out the possibility that she was fired for job performance; (3) she suffered an adverse job action by her employer; and (4) her employer sought a replacement for her with roughly equivalent qualifications. *Benoit v. Technical Mfg. Corp.,* 331 F.3d 166, 173 (1st Cir.2003).

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[2] Once a plaintiff sets forth a prima facie case, the defendant must establish one of four affirmative defenses: that the wage discrepancy resulted from (i) a seniority system, (ii) a merit system, (iii) a system measuring earnings by quantity or quality of production, or (iv) a differential based on a factor other than sex. *Mullenix v. Forsyth Dental Infirmary for Children,* 965 F.Supp. 120, 139-40 (D.Mass.1996), (citing B*yrd v. Ronayne*, 61 F.3d 1026, 1033 (1st Cir.1995)).

In the case at bar, the Plaintiff cannot get past the first step in the three-step McDonnell Douglass framework, which requires that Plaintiff establish a prima facie case of discrimination. Plaintiff can set forth no set of facts as to why his termination was wrongful under Title VII or the ADEA because she admittedly failed to report to her assigned teaching position at the Clap Elementary School and was therefore not properly performing the requirements of her job, to be present and to teach. "[R]egular attendance is an essential function of most jobs." *Hypes v. First Commerce Corp.,* 134 F.3d 721, 727 (5th Cir.1998). Plaintiff admits she did not report to the Clap Elementary, and does not deny that she was certified to teach reading. She did not want to accept this position because she had not taught reading for some time and in her opinion "would have been required to accept more responsibility, [and] undergo stricter evaluations." Complaint ¶24. Essentially, Plaintiff would have had to work harder and was unwilling to do so.

Even if Plaintiff met her prima facie case, which Defendants assert she has not, she is unable to rebut Defendants legitimate business reasons for her termination and show pretext. *Douglas v. J.C. Penney* 474 F.3d. 10 (C.A.1, Mass. 2007). Defendant's legitimate reason for Plaintiff's termination in 2004 is her failure to report to her teaching assignment. Plaintiff admits this reason, therefore, as a matter of law, Plaintiff cannot show a pretext for Defendant's actions. Furthermore, Plaintiff seeks to cloud the issue of her Complaint by including conclusory allegations, improbable inferences and unsupported speculation of extraneous matters not "adequate specific factual information based on personal knowledge." *Quinones* 436 F. 3d at 290. Not only are these conclusions irrelevant to the reason Plaintiff was terminated, but they simply cannot be supported by facts. Since Plaintiff cannot meet her burden of proof for establishing a prima facie case of discrimination, nor will she be able to prove pretext, any claim against Defendants for unlawful discrimination against Plaintiff based on race, gender or age must fail.

D. Plaintiff's Complaint Should Be Dismissed Because Plaintiff Cannot Establish A Prima Facie Case Of Discrimination Based On Disability.

Plaintiff alleges she was denied a leave of absence based on Defendant's unwillingness to accommodate her disability. To establish a prima facie case of discrimination based on disability a Plaintiff must show 1) she has a physical or mental impairment that substantially limits one or more major life activities, 2) with or without reasonable accommodation, she was a qualified individual able to perform the essential functions of the position involved and 3) the employer, despite knowing of her disability, did not reasonably accommodate it. *See Estades-Negroni v. Assocs. Corp. of North America*, 377 F.3d 58, 63 (1st Cir.2004); *Russell v. Cooley Dickinson Hosp., Inc.*, 437 Mass. 443, 772 N.E.2d 1054 (2002).

Here Plaintiff's Complaint fails to meet the required elements. First, neither in her Complaint not to the Defendants, has the Plaintiff ever disclosed the nature of any disability, therefore the Plaintiff has not shown that has a "physical or mental impairment that substantially limits one or more major life activities." *Id*. Second, Plaintiff has not alleged any facts to show that she was a "qualified individual able to perform the essential function of the position." Id. This is not shown in the Complaint, and cannot be ascertained based on the unwillingness of this Plaintiff to share the nature of her disability. Third, the Complaint does not allege Defendant had knowledge of any alleged disability. Just as Plaintiff has not alleged in this Complaint what her disability is, she has not informed the Defendant (nor the MCAD when she first alleged this claim). Given Plaintiff's lack of facts sufficient to substantiate a prima facie case of failure to accommodate and disability discrimination, this claim should be dismissed.

E. **Complaint Is Insufficient To Support A Claim Of Wrongful Termination On The Grounds Of Retaliation**

To establish a prime facie case of retaliation, plaintiff must show that 1) she engaged in "protected conduct", 2) she suffered an adverse employment action and 3) the adverse action was causally connected to the protected conduct. *Gilbert v. Amerifee, L.L.C.***,** 345 F.Supp.2d 70, 73 (D.Mass. 2004) citing *Dressler v. Daniel,* 315 F.3d 75, 78 (1st Cir. 2003). An inference of retaliation may arise where adverse employment action takes place soon after the employee engages in protected activity. *Mesnick v. General Elec. Co.*, 950 F.2d 816, 828 (1st Cir. 1991); *Oliver v. Digital Equipment Corp.*, 846 F.2d 103, 110 (1st Cir.1988); *Ruffino v. State Street Bank and Trust Co.*, 908 F.Supp. 1019, 1044-1045 (D.Mass. 1995). Protected activity includes when an employee has "made a charge, testified, assisted, or participated in" a Title VII proceeding or investigation. 42 U.S.C. § 2000e-3(a).

Here, the Plaintiff alleges that her termination in 2004 was "in retaliation for failure to report to an assignment for which she was not qualified and for bringing a complaint against the Defendants." *See Complaint*, ¶ 30 at p.21. The Complaint identifies no protected activity as grounds for her claim of retaliation. Failure to report to an assignment is not protected activity. Furthermore, Plaintiff's Complaint is replete with allegations that Plaintiff "complained" in various forms, this allegation of retaliation is by no means clear as to what particular complaint Defendants retaliated against her for, and therefore cannot be determined on the Plaintiff's allegations as to whether she was engaged in protected activity or not. Furthermore, the Supreme Court has held that the challenged action "well might have 'dissuaded a reasonable worker from making or supporting a charge of discrimination." *Burlington Northern and Santa Fe Ry. Co. v. White*, 126 S.Ct. 2405, 2407 (2006). Plaintiff was terminated for not reporting to her teaching assignment, this action cannot objectively be deemed to dissuade any employee including the Plaintiff from making a charge of discrimination, but rather from not appearing to work. Furthermore, Plaintiff's termination did not stop her from then filing a charge of discrimination. Accordingly, in the absence of any other credible evidence of a causal nexus between protected conduct and her termination, Plaintiff has failed to meet her burden and the Complaint must be dismissed.

F. Plaintiff's claims for breach of contract should be dismissed because she has failed to exhaust her administrative remedies and the Court lacks jurisdiction to determine disputes regarding collective bargaining agreements.

Assuming all factual allegations of the complaint and all inferences drawn there from are accepted as true, the claim for breach of contract should be dismissed because Plaintiff failed to exhaust her claim under the grievance and arbitration procedure provided by the Collective Bargaining Agreement between the Boston Teacher's Union and the Boston School Committee, referenced extensively by the Plaintiff. *See Newton v. Commissioner of Dept. of Youth Serv.*, 62 Mass. App. Ct. 343, 345-347 (2004); Azzi v.

Western Elec. Co., 19 Mass. App. Ct. 406, 408 (1985) ("Before bringing an action against his employer for a violation of a collective bargaining agreement, the employee is required to exhaust the grievance procedures.") and Complaint ¶ 9 at p.5, ¶11, 12,13,15, 32.

The Collective Bargaining Agreement executed between the BTU and the Boston School Committee governs the Plaintiff's scope of employment, including grievance procedures. It is well-recognized under Massachusetts law that where a collective bargaining agreement exists and the subject matter of the dispute is encompassed therein, public policy favors the resolution of the dispute between an employee and employer within the framework of the grievance and arbitration procedures. *Newton, 62 Mass. App. Ct. at 346*; see *Local No. 1710, Int'l. Assc. of Firefighters, AFL-CIO v. Chicopee,* 430 Mass. 417, 421-422 (1999); *Balsavich v. Local Union 170, Intl. Bhd. of Teamsters,* 371 Mass. 283, 286 (1976)("Employees may not simply disregard the grievance procedures set out in a collective labor contract and go direct to court for redress against the employer.") Therefore, Plaintiff's breach of contract claim must be dismissed because she failed to exhaust her claims through the grievance and arbitration procedure provided by the Collective Bargaining Agreement before she sought judicial remedy. See *Chicopee,* 430 Mass. at 421-422; *Balsavich*, 371 Mass. at 286.

G. Miscellaneous Claims Vaguely Asserted by Plaintiff Should be Dismissed.

The Plaintiff includes a hodgepodge of statements and references to statutes purporting to be claims and separate counts against the Defendants. A Court may dismiss a complaint for failure to adhere to the rules of civil procedure, including Rule 8, where the complaint is so verbose and confusing that it fails to give the defendants "fair notice of what the plaintiff's [claims are] and the grounds upon which [they rest].” *Mmoe v. Commonwealth,* 393 Mass. 617, 621 (1985) citing *Conley v. Gibson,* 355 U.S. 41, 47 (1957). Such a complaint can be dismissed regardless of whether or not it may also be dismissed pursuant to Rule 12(b)(6) and/or Rule 56. *Id* at 620; *see also Johnson v. Chief Justice for Administration & Management of the Trial Court et al.*, 2004 WL 1440571 at *2 (2004). *Pro se* status does not relieve a plaintiff of the pleading standards otherwise prescribed by the Federal Rules of Civil Procedure. *Saidin v. New York City Dept. of Educ.*498 F.Supp.2d 683 (S.D.N.Y.,2007) citing s*ee Praseuth v. Werbe,* 99 F.3d 402, 1995 WL 746946 (2d Cir.1995) (“Failure to comply with Rule 8(a) may result in dismissal of a complaint, even if the pleader is proceeding pro se.”) (*citing Prezzi v. Schelter,* 469 F.2d 691, 692 (2d Cir.1972).

a. Plaintiff makes stray references to statutes without any linked facts, therefore the claims cannot be discerned and should be dismissed.

Plaintiff’s Complaint, lacks any further reference to M. G.L. c. 152, “Title I” (Improving the Academic Achievement of the Disadvantaged), “Title XXVIII” (Actions for Re-determinations of Employment Status) 26 U.S.C.A. §7436; “Title III” (Language Instruction for Limited English Proficient and Immigrant Students) 20 U.S.C.A. §841-848; the “SNLA” (“Small Necessities Leave Act”) M.G.L. c.149 §521 beyond the second page of the Complaint. As the Plaintiff has failed to link any of these statutes to facts in the Complaint, any viable claims cannot be discerned arising from them, any potential allegations under these statutes should be dismissed.

Plaintiff also includes “Counts” alleging “Conflict of Interest” without citing to any state or federal law. *Complaint* “Counts II and IV.” Furthermore, Plaintiff does not assert sufficient facts to event liberally ascertain how this claim can arise and is equivocal in her statement: " Mr. Shurtleff held two potentially conflicting City of Boston jobs at the same time" without asserting what those positions were. Complaint ¶ 16. This is not a fact sufficient to make out any claim and should be stricken or dismissed.

Plaintiff also generally makes reference to the Employee Retirement Income Security Act (ERISA). 29 U.S.C. §§1001 et seq. However, ERISA requires employee benefit plans to provide any participant whose claim for benefits is denied with an opportunity for review by the fiduciary denying the claim. 29 U.S.C. § 1133(2). Plaintiff has not exhausted her remedies with respect to her benefits plan, and therefore any claims regarding ERISA before this Court should be dismissed.

b. Allegations against the MCAD, EEOC and BTU should be striken or dismissed.

The Complaint repeatedly asserts allegations against (or in reference to) the MCAD, EEOC and BTU. None of these entities are named party to this case. *See Complaint*, ¶¶ 2, 10 (Count I), 28. The Complaint seeks "judicial review" of the MCAD and EEOC decisions and generally their actions. This Court has no power to exercise "judicial review" of the MCAD decision, as there was no final administrative decision of the MCAD, and if there had been, Plaintiff has not exhausted her remedies to seek such review. Under Massachusetts law, a final decision of a state agency is reviewable in state court under M.G.L. c. 30A §14. The MCAD did not issue a "final decision" as this matter was not approved for hearing at that agency. The Plaintiff did not seek such review at the state court level either, and would be required to before seeking review of that decision before this Court. Therefore, the remedy of "judicial review" is not available before this Court.

Similarly, the Plaintiff asserts allegations and claims against the Boston Teachers Union ("BTU") which can be construed as a breach of the duty of fair representation under the Massachusetts law, M.G.L. c. 151A, not the Fair Labor Standards Act. *Complaint* ¶ *27*¶ *32*. These claims cannot be asserted against the named Defendants who owed Plaintiff no such duty.

III. CONCLUSION

For the foregoing reasons, the Defendants, Boston School Committee, Boston Public Schools, Ray Shurtleff, Eddie Neal, requests that the Court dismiss this Complaint in its entirely.

Date: January 23, 2008

Respectfully submitted,
Boston School Committee
By its Attorney,
William F. Sinnott
Corporation Counsel

By: __**/s/ Andrea Alves Thomas**______
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CERTIFICATE OF SERVICE

I, Andrea Alves-Thomas, hereby certify that on this 23th day of January, 2008, I have served a copy of the foregoing document via regular mail, postage prepaid, directed to the *pro se* Plaintiff:

Helen Cameron

/s/ Andrea Alves Thomas
Andrea Alves Thomas